

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIPPON SHINYAKU CO., LTD.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 21-1015 (LPS)
)	
SAREPTA THERAPEUTICS, INC.,)	
)	
Defendant.)	

**DEFENDANT SAREPTA THERAPEUTICS, INC.’S MOTION TO DISMISS
CLAIMS II-III OF NIPPON SHINYAKU’S FIRST AMENDED COMPLAINT
AND TO STRIKE PORTIONS OF THE FIRST AMENDED COMPLAINT**

Defendant Sarepta Therapeutics, Inc. (“Sarepta”) hereby moves pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss Claim II of the First Amended Complaint for failure to state a claim on which relief can be granted. Sarepta also moves pursuant to Fed. R. Civ. P. 12(f) to strike paragraphs 2 (second sentence), 11, 15-20, 78, 82-87, 91, & 95-100 of the First Amended Complaint (D.I. 39) and pursuant to Fed. R. Civ. P. 12(b)(1) to dismiss Claims II and III of the First Amended Complaint for lack of subject matter jurisdiction. The grounds for this motion are more fully set forth in Sarepta’s opening brief, filed herewith.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Megan E. Dellinger

OF COUNSEL:

Charles E. Lipsey
J. Derek McCorquindale
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1875 Explorer Street, Suite 800
Reston, VA 20190-6023
(571) 203-2700

Michael J. Flibbert
Aaron Gleaton Clay
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 New York Avenue, NW
Washington, DC 20001-4413
(202) 408-4000

Alissa K. Lipton
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
Two Seaport Lane
Boston, MA 02210-2001
(617) 646-1600

Jack B. Blumenfeld (#1014)
Megan E. Dellinger (#5739)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
mdellinger@morrisnichols.com

Attorneys for Defendant

September 24, 2021

RULE 7.1.1 STATEMENT

Pursuant to D. Del. LR 7.1.1, counsel for Defendant Sarepta Therapeutics, Inc. states that reasonable efforts, including verbal communication between Delaware counsel, were made to reach agreement with Plaintiff Nippon Shinyaku Co., Ltd. on the portion of this motion seeking to strike portions of the First Amended Complaint (D.I. 39) under Fed. R. Civ. P. 12(f), but the parties were unable to reach agreement.

/s/ Megan E. Dellinger

Megan E. Dellinger (#5739)

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2021, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on September 3, 2021, 2021, upon the following in the manner indicated:

Amy M. Dudash, Esquire
MORGAN, LEWIS & BOCKIUS LLP
1201 North Market Street, Suite 2201
Wilmington, DE 19801
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

Amanda S. Williamson, Esquire
Christopher J. Betti, Esquire
Krista Vink Venegas, Esquire
Maria E. Doukas, Esquire
Michael T. Sikora, Esquire
MORGAN, LEWIS & BOCKIUS LLP
110 North Wacker Drive, Suite 2800
Chicago, IL 60606
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

Jitsuro Morishita, Esquire
MORGAN, LEWIS & BOCKIUS LLP
16F, Marunouchi Building,
2-4-1 Marunouchi, Chiyoda-ku
Tokyo, 100-6316 Japan
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

/s/ Megan E. Dellinger

Megan E. Dellinger (#5739)